

## REMARKS

Reconsideration of the subject patent application is respectfully requested.

Claims 22-41 are presently pending and all twenty (20) claims have been rejected by the Examiner based on the Wood et al. reference (GB 2 078 491). More specifically, claims 22-24, 26-29, 32, and 35-41 are rejected under 35 U.S.C. §102(b) as being anticipated by Wood et al. Claims 25, 30, 31, 33, and 34 are rejected under 35 U.S.C. §103(a) as being unpatentable over Wood et al.

In an effort to further clarify the structural differences between the claimed invention and the cited references, claims 22, 39, and 40 have been amended. Claims 29, 30, and 41 have been canceled. The amendment to claim 22 is directed to the specific structure of the elastic hem, with the sealing elements that provide for an abutting fit of the hem around the respirator when placed in use. Similar amending changes are made to claim 39. With regard to claim 40, the specific step of providing the style of sealing elements and then conjoining those sealing elements with the hem are novel and unobvious steps that are not found nor practiced in the prior art.

The Examiner's rejection of claim 22 is based on the manner in which the Examiner has interpreted the Wood et al. reference and that interpretation is set forth as follows, based on Applicant's claim 22 text, prior to the present amendment:

22. (New) A hood (1), in particular for a clothing item for protective and military purposes, such as an NBC protective suit, said hood comprising:

a circumferential (peripheral) elastic hem (5, 5a) to form a face opening, the face opening being provided for receiving a respirator and the hem abutting the respirator in the use state (page 1, lines 67-75), wherein the side of hem that faces into the face opening (5) is provided with a multiplicity of circumferential sealing elements (5a) which are durably conjoined with the hem and are in the form of elastofibers for closeout abutment of the respirator (page 1, lines 67-75).

Analyzing the Examiner's application of the Wood et al. disclosure to the present invention and in particular to claim 22, it is noted first, and as a general statement, that the Wood et al. specification is non-specific in many aspects and lacks any type of adequate or sufficient teaching in several respects. Each of these (lacking) aspects is individually discussed below.

1. First, the Examiner contends that Wood et al. has a circumferential (peripheral) elastic hem (5, 5a) to form a face opening. While the Examiner needs to interpret the Wood et al. reference in this manner to try and support the claim rejections, the facts do not support the Examiner's interpretation. Wood et al. does not provide the elastic hem, as claimed.

Referring to the Wood et al. specification, on page 1, in lines 65-69, the facial aperture 17 is described as having a "perimeter 5" with "elasticated inserts 5a". The fact that "inserts" are described, it seems clear that a plurality of separate and individual "inserts" are somehow sewn into the fabric of the hood or in some other way attached to

the hood along the edge of the aperture. However, the Wood et al. specification is far too general and it lacks any type of structural specifics or details to enable anyone to understand the structural nature, use, and positioning of the referenced “elasticated inserts 5a”. While one might assume that use of the term “insert” is intended to imply that it is “inserted” in some fashion into the fabric, absolutely nothing is disclosed in the Wood et al. specification in this regard. The accompanying drawings are even less helpful, as it is impossible to discern any type of structural feature, characteristic, or quality of the referenced inserts based on the illustrations provided.

Even if we assume that the Wood et al. specification discloses a construction that may give an elastic or stretchable quality to the fabric surrounding the aperture, this does not equate to any type of sealing around an object nor any type of sealing quality or sealing integrity.

2. Second, the Examiner next takes the same “elasticated inserts 5a” and converts them into circumferential sealing elements. If we are talking about “inserts” as separate and individual segments, none of these individual segments are “circumferential” or “peripheral”. Even if one tries to argue that the cumulative effect of all of the inserts taken together, once sewn into the hood material, creates a complete circumference or a complete periphery, that cannot change the fact that each insert is NOT circumferential or peripheral. If the Examiner intends to argue that all of the individual inserts taken together create a single periphery, it should be noted that the claim requires a plurality of peripheral sealing elements and not even the most liberal view can “stretch” Wood et al. that far.

Further, Wood et al. describes the in and out flow of air and it is not clear how a sealed interface could possibly exist and yet still permit the described air flow. On page 1, in lines 67-70 of Wood et al., there is described "a close fit" between the garment and the gas mask. There is no mention of a sealed fit nor sealing that particular interface. Instead, what is described is nothing more than a "close fit". There is no support of any type in Wood et al. for the conclusion that the referenced "close fit" can somehow arbitrarily be converted into a "sealing" fit which happens to be the described function of Applicant's peripheral (sealing) elements. In the Wood et al. specification (page 1, in lines 25-32), the term "inserts" is used in the context of filtering any air that is drawn into the garment. Since no reference numbers are used for these "inserts", are these the same as the elasticated inserts 5a?

3. Third, the Examiner wants to equate "elasticated" and "elastofibers". While this may be convenient in order to try and force Wood et al. to fit claim 22, this equating is technically wrong and Wood et al. provides no support for this type of interpretation. Terms such as "elasticate" or "elastitize" mean to make elastic and this might be done by using a rubber band or a rubberized coating. Obviously a rubber band or coating is not an "elastofiber" as that term has been explained and defined in Applicant's specification. Additionally, in Wood et al., there is no mention of any type of fiber or fibrous construction and nothing in Wood et al. is described that would suggest a fibrous construction or even the need for fibers. In contrast, Applicant's specification very clearly defines and explains the construction and composition of the recited "elastofibers". These are manufactured fibers and nothing in Wood et al. makes any

similar suggestion for the construction and material selection for inserts 5a. Any attempt to define the Wood et al. inserts 5a as “elastofibers” is total and groundless speculation driven only by hindsight.

Claim 22 has been amended to add clarifying language and to include the substantially parallel arrangement for the elastofiber sealing elements as originally recited in claim 29. Although claim 29 has been canceled, it is important to consider the rejection of that claim relative to the amended form of claim 22.

The Examiner’s entire rejection of claim 29 is to contend that the elasticated inserts 5a of Wood et al. are “in an essentially parallel arrangement” based on FIGS 1 and 2. The text of Wood et al. says absolutely nothing about being essentially parallel. Therefore, this rejection must be based on the Examiner’s ability to visually eyeball the drawings and thereafter decide that the inserts 5a are essentially parallel. With all due respect to the Examiner, this is impossible and involves nothing more than using hindsight to reconfigure and redefine the prior art to try and force it to fit the claim. It is Applicant’s position that this rejection involves gross distortions of the prior art and involves arbitrarily adding structural aspects into the prior art that do not exist in any way, shape, or form.

The blunt truth of the matter is that no one can even begin to understand what inserts 5a are, where they are, what they look like, how they are inserted or connected, based on what is disclosed in the Wood et al. reference. The fact is that reference number 5a is used only once in FIG. 1 and its lead line leads to a blank area between a solid line and a dotted line. No one would have any hint of what insert 5a may look like, how or if it is positioned relative to the opening, and how or if it might be connected. The only

mention of insert 5a is in FIG. 1 and that illustration is essentially worthless to any understanding of insert 5a.

With regard to the Wood et al. specification, the reference number 5a is used only once. As noted, on page 1, in line 68, there is a reference to “elasticated inserts 5a”. There is essentially zero information provided with regard to that particular feature and it is impossible with this sparse disclosure to know anything about the inserts 5a. Granted, it is not the Examiner’s fault that Wood et al. provides a grossly inadequate disclosure about the inserts 5a, but those are the facts.

Since no one can tell anything about the structure of inserts 5a, it is curious how a rejection could be based on those inserts by first contending that they are elastofibers and secondly that they are essentially parallel. There is absolutely no support for any of these hindsight conclusions. While not the focus of the primary arguments in support of patentability of claim 22, the Examiner’s rejections of claims 23 and 24 are similarly deficient in that they seem to create the “desired” construction out of thin air, as Wood et al. provides zero support. Since the inserts 5a are never actually illustrated, how can one tell that they abut “the respirator essentially linearly”? The reference to FIG. 2 is equally baffling. Since inserts 5a are not identified in FIG. 2, how can anyone tell that they protrude from the hem? Actually, Wood et al. never uses the term “hem”, so we should add this to our list of elements that are claimed to exist in Wood et al. that do not.

The above arguments and analysis relative to claim 22 are equally and fully applicable to claim 39. With regard to method claim 40, the specific structure of the sealing elements and the step of conjoining those with the remainder of the hem involve novel and unobvious steps that are not found in nor practiced by the prior art. Since these

are the only three independent claims, these claims and all pending dependent claims are in condition for allowance and such action by the Examiner is respectfully requested. There should not be any doubt that Wood et al. fails in virtually every aspect as a suitable reference under §102 or §103. There are numerous features claimed by Applicant that are totally absent in Wood et al., and this provides more than ample support for allowance of all pending claims.

Respectfully submitted,

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